

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 286

To amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mrs. MORELLA introduced the following bill; which was referred to the  
Committee on Energy and Commerce

---

## A BILL

To amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Hospital Cooperative  
5       Agreement Act”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to encourage cooperation  
3 between hospitals in order to contain costs and achieve  
4 a more efficient health care delivery system through the  
5 elimination of unnecessary duplication and proliferation of  
6 expensive medical or high technology services or equip-  
7 ment.

8 **SEC. 3. HOSPITAL TECHNOLOGY AND SERVICES SHARING**  
9 **DEMONSTRATION PROGRAM.**

10 Part D of title VI of the Public Health Service Act  
11 (42 U.S.C. 291k et seq.) is amended by adding at the end  
12 thereof the following new section:

13 **“SEC. 647. HOSPITAL TECHNOLOGY AND SERVICES SHAR-**  
14 **ING DEMONSTRATION PROGRAM.**

15 “(a) ESTABLISHMENT.—The Secretary shall estab-  
16 lish a demonstration program under which the Secretary  
17 shall in fiscal year 1994 award ten 5-year grants to eligi-  
18 ble applicants to facilitate collaboration among two or  
19 more hospitals with respect to the provision of expensive,  
20 capital-intensive medical technology or other highly re-  
21 source-intensive services. Such program shall be designed  
22 to demonstrate the extent to which such agreements result  
23 in a reduction in costs, an increase in access to care, and  
24 improvements in the quality of care with respect to the  
25 hospitals involved.

26 “(b) ELIGIBLE APPLICANTS.—

1           “(1) IN GENERAL.—To be eligible to receive a  
2           grant under subsection (a), an entity (or entities)  
3           shall be a licensed hospital (or hospitals) and shall  
4           prepare and submit to the Secretary an application  
5           at such time, in such manner, and containing such  
6           information as the Secretary may require, includ-  
7           ing—

8                   “(A) a statement that such hospital (or  
9                   hospitals) desires to negotiate and enter into a  
10                  voluntary cooperative agreement under which  
11                  such hospital (or hospitals) is operating in one  
12                  State or region for the sharing of medical tech-  
13                  nology or services;

14                  “(B) a description of the nature and scope  
15                  of the activities contemplated under the cooper-  
16                  ative agreement;

17                  “(C) a description of the financial arrange-  
18                  ment between the hospitals that are parties to  
19                  the agreement; and

20                  “(D) any other information determined ap-  
21                  propriate by the Secretary.

22           “(2) DEVELOPMENT OF EVALUATION GUIDE-  
23           LINES.—Not later than 90 days after the date of en-  
24           actment of this section, the Administrator for  
25           Health Care Policy and Research shall develop eval-

1       uation guidelines with respect to applications sub-  
2       mitted under paragraph (1).

3               “(3) EVALUATIONS OF APPLICATIONS.—The  
4       Secretary, in consultation with the Administrator for  
5       Health Care Policy and Research, shall evaluate ap-  
6       plications submitted under paragraph (1). In deter-  
7       mining which applications to approve for purposes of  
8       awarding grants under subsection (a), the Secretary  
9       shall consider whether the cooperative agreement de-  
10      scribed in each such application meets guidelines de-  
11      veloped under paragraph (2) and is likely to result  
12      in—

13               “(A) the enhancement of the quality of  
14      hospital or hospital-related care;

15               “(B) the preservation of hospital services  
16      in geographical proximity to the communities  
17      traditionally served by the applicant hospital (or  
18      hospitals);

19               “(C) improvements in the cost-effectiveness  
20      of high-technology services by the hospitals in-  
21      volved;

22               “(D) improvements in the efficient utiliza-  
23      tion of hospital resources and capital equip-  
24      ment;

1           “(E) the provision of services that would  
2           not otherwise be available; or

3           “(F) the avoidance of duplication of hos-  
4           pital resources.

5           “(c) ALLOCATION OF GRANT FUNDS.—

6           “(1) IN GENERAL.—Amounts provided under a  
7           grant awarded under subsection (a) shall be used  
8           only to facilitate collaboration among hospitals and  
9           may not be used to purchase facilities or capital  
10          equipment. Such permissible uses may include reim-  
11          bursements for the expenses associated with special-  
12          ized personnel, administrative services, support serv-  
13          ices, and instructional programs.

14          “(2) GRANT AWARD AMOUNT.—Hospitals ap-  
15          plying for grants under subsection (a) shall specify  
16          the desired grant award amount. The Secretary shall  
17          determine the appropriate amount in granting such  
18          awards.

19          “(3) CARE IN RURAL AREAS.—

20          “(A) IN GENERAL.—Not less than three of  
21          the grants awarded under subsection (a) shall  
22          be used to demonstrate the manner in which co-  
23          operative agreements of the type described in  
24          such subsection may be used to increase access  
25          to or quality of care in rural areas.

1           “(B) DEFINITION.—As used in subpara-  
2           graph (A), the term ‘rural areas’ means those  
3           areas located outside of metropolitan statistical  
4           areas.

5           “(d) MEDICAL TECHNOLOGY AND SERVICES.—

6           “(1) IN GENERAL.—Cooperative agreements fa-  
7           cilitated under this section shall provide for the  
8           sharing of medical technology or eligible services  
9           among the hospitals which are parties to such agree-  
10          ments.

11          “(2) MEDICAL TECHNOLOGY.—For purposes of  
12          this section, the term ‘medical technology’ includes  
13          the drugs, devices, equipment and medical and sur-  
14          gical procedures utilized in medical care, and the or-  
15          ganizational and support systems within which such  
16          care is provided, that—

17               “(A) have high capital costs or extremely  
18               high annual operating costs; and

19               “(B) are technologies with respect to which  
20               there is a reasonable expectation that shared  
21               ownership will avoid a significant degree of the  
22               potential excess capacity of such service in the  
23               community or region to be served under such  
24               agreement.

1           “(3) ELIGIBLE SERVICES.—With respect to  
2           services that may be shared under an agreement en-  
3           tered into under this section, such services shall—

4                   “(A) either have high capital costs or ex-  
5                   tremely high annual operating costs; and

6                   “(B) be services with respect to which  
7                   there is a reasonable expectation that shared  
8                   ownership will avoid a significant degree of the  
9                   potential excess capacity of such services in the  
10                  community or region to be served under such  
11                  agreement.

12          Such services may include mobile services.

13          “(e) TERM.—The demonstration program established  
14          under this section shall continue for a term of 5 years.

15          “(f) REPORTS.—

16                  “(1) IN GENERAL.—Grantees shall submit an-  
17                  nual reports to the Secretary containing information  
18                  on the demonstration projects funded under this sec-  
19                  tion, as required by the Secretary.

20                  “(2) TO CONGRESS.—On the date that occurs 5  
21                  years after the establishment of the demonstration  
22                  program under this section, the Secretary shall pre-  
23                  pare and submit to the appropriate committees of  
24                  Congress, a report concerning the potential for coop-

1       erative agreements of the type entered into under  
2       this section to—

3               “(A) contain health care costs;

4               “(B) increase the access of individuals to medi-  
5       cal services; and

6               “(C) improve the quality of health care.

7       Such report shall also contain the recommendations of the  
8       Secretary with respect to future programs to facilitate co-  
9       operative agreements.

10       “(g) RELATION TO OTHER LAWS.—

11               “(1) IN GENERAL.—Notwithstanding any provi-  
12       sion of the antitrust laws, it shall not be considered  
13       a violation of the antitrust laws for a hospital to  
14       enter into, and carry out activities under, a coopera-  
15       tive agreement in accordance with this section.

16               “(2) DEFINITION.—For purposes of this sub-  
17       section, the term ‘antitrust laws’ means—

18               “(A) the Act entitled “An Act to protect  
19       trade and commerce against unlawful restraints  
20       and monopolies”, approved July 2, 1890, com-  
21       monly known as the “Sherman Act” (26 Stat.  
22       209; chapter 647; 15 U.S.C. 1 et seq.);

23               “(B) the Federal Trade Commission Act,  
24       approved September 26, 1914 (38 Stat. 717;  
25       chapter 311; 15 U.S.C. 41 et seq.);



1           “(C) the Act entitled “An Act to supple-  
2           ment existing laws against unlawful restraints  
3           and monopolies, and for other purposes”, ap-  
4           proved October 15, 1914, commonly known as  
5           the “Clayton Act” (38 Stat. 730; chapter 323;  
6           15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660,  
7           3285, 3691; 29 U.S.C. 52, 53); and

8           “(D) any State antitrust laws that would  
9           prohibit the activities described in paragraph  
10          (1).

11       “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
12       are authorized to be appropriated to carry out this section,  
13       \$2,500,000 for each of the fiscal years 1994 through  
14       1998. Any appropriation pursuant to the preceding sen-  
15       tence shall be subject to section 601 of the Congressional  
16       Budget Act of 1974 (relating to discretionary spending  
17       limits).

18       “(i) EFFECTIVE DATE.—If the Agency for Health  
19       Care Policy and Research fails to establish guidelines pur-  
20       suant to subsection (b)(2), the Secretary shall award  
21       grants under this section based on the criteria contained  
22       in subsection (b)(3).”.

○